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OFFICE OF PETITIONS

In re Application of :
Kern & Schwingle :
Application No. 10/054,454 :
Application Filing Date: November 13, 2001 :
Attorney Docket No. 29020/98022B :
ON PETITION

This is a decision on the petition under 37 CFR 1.59(b) filed January 6, 2005.

The petition is granted.

Petitioner requests that the document titled, "Amendment under 37 CFR 1.312" filed January 10, 2005, (certificate of mailing dated January 5, 2005) be expunged from the above-cited application as it was filed in error. It is noted that both an "Amendment under 37 CFR 1.312" was filed and a "Corrected Amendment under 37 CFR 1.312" were filed, but that the request for expungement is made only as to the document titled "Amendment under 37 CFR 1.312. A review of the application file history reveals that the "Amendment Under 37 CFR 1.312" is not a part of the original disclosure (which would prohibit expungement pursuant to 37 CFR 1.59(a)) and the expungement of document would not result in the application becoming abandoned. The expungement of the "Amendment under 37 CFR 1.312 is, therefore, appropriate.

Accordingly, the "Amendment under 37 CFR 1.312" will be expunged from the application file along with the supplemental documents titled "Amendment to Specification", "Listing of Claims", and "Remarks" all filed January 10, 2005.

Petitioner is advised that the documents cannot be returned as the original papers were scanned into an electronic file with the hard copies being destroyed thereafter.

The fee prescribed by 37 CFR 1.59(b) is \$200.00 and will be charged to deposit account 13-2855. See 37 CFR 1.17(g).

Questions concerning this decision may be addressed to the undersigned at (571)272-3222.

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